EDITOR'S NOTE

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87-229 No.

IN THE

Supreme Court, U.S.
FILED
SEP 5 1986
JOSEPH F. SPANIOL, JR.

Supreme Court of the United States

OCTOBER TERM, 1986

NO.A-1050

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, as an individual,

Plaintiff(s)/Petitioner(s)/Appellant(s)

v.

STATE OF CALIFORNIA, George Deukmejian, Governor; March Fong Eu, Sec'y of State; JOHN K. VAN DE KAMP, Attorney-General of State; INTEGRITY HOME LOAN CO., INC. ["INTEGRITY, INC."]; PATRICK D. McCARRON, President of INTEGRITY, INC.; JOHN M. PLUMMER, Vice-President of INTEGRITY, INC; [LONNIE KAPLAN, SIMA KAPLAN, alleged Beneficiaries under Trust Deed No.81-1214615, L.A. County, with defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC., Trustee in Foreclosure]; et al,

Defendants/Respondents/Appellees

CIVIL NO.83-6427

APPEAL FROM THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

APPENDICES

GWENDOLYN L. KING, In Pro Se
c/o CENTRAL AVENUE POSTAL CENTER
3003 North Central Avenue
Suite 121-158
Phoenix, Arizona 85012

PETITIONER(S)/APPELLANT(S)

NO._____

King et al v California et al

734 F 2d 910 (9th Cir 1986)

NO.A-1050

JURISDICTIONAL STATEMENT

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NO._____

King et al v California et al

734 F 2d 910 (9th Cir 1986)

NO.A-1050

CIVIL NO.83-6427

APPEAL FROM THE NINTH CIRCUIT

COURT OF APPEALS

GWENDOLYN L. KING, In Pro Se
c/o CENTRAL AVE POSTAL CENTER
3003 North Central Ave
Suite 121-158
Phoenix, Arizona 85012

PETITIONER(S)/APPELLANT(S)

September 4, 1986

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

GWENDOLYN L. KING, for herself and on behalf of all others similarly situated,
Plaintiff-Appellant,

v.

STATE OF CALIFORNIA, GEORGE DEUKMEJIAN, Governor; MARCH FONG EU, Sec'y of State; JOHN VAN DE CAMP, Attorney-General; INTEGRITY HOME LOAN, INC., PATRICK D. MCCARRON, President of Integrity Home Loan, JOHN M. PLUMMER, Vice-President of Integrity Home Loan, et al.,
Defendants-Appellees.

No. 83-6427
D.C. No. CV 83-5901-R
OPINION
Reported at 784 F 2d 910 (9th Cir 1986)

Submitted on Briefs

January 7, 1986—Pasadena, California

Filed March 7, 1986

Before: Jerome Farris, Harry Pregerson and William A. Norris, Circuit Judges.

Opinion by Judge Farris

Appeal from the United States District Court for the Central District of California
Manuel L. Real, District Judge, Presiding

OPINION

FARRIS, Circuit Judge:

Gwendolyn King appeals from the district court's dismissal of her complaint with prejudice. Her action under the Truth-In-Lending Act and the Civil Rights Act alleged that Integrity Home Loan had failed to disclose the identity of the third party lenders who had loaned money to her secured by deeds of trust on her home. She also alleged that the trust deeds were void because the trustee, R&T Financial Servicing Co., Inc., lacked corporate status, and that the power of sale provisions of the California Civil Code are unconstitutional. She further alleged violations of 42 U.S.C. Sections 1981, 1982, 1983, and 1985 and slander of title by Integrity.

King's action against the State of California and its Attorney-General sought declaratory and injunctive relief that would render the actions of R&T null on the ground that R&T's corporate powers were suspended for non-payment of tax.

The district court dismissed on three alternative grounds: King failed to file an opposition to the motions to dismiss; King failed to appear at the hearing on the motions to dismiss; and King's complaint failed to state a claim. King contends that the district court erred by not granting her a continuance to respond to the motions to dismiss and by holding that she failed to state a claim.

I. STATEMENT OF THE CASE

Integrity served as a loan broker on behalf of third party lenders in a series of three loans to Gwendolyn King. Each loan was secured by a deed of trust on King's home: a second trust deed, dated January 1, 1979, secured the first loan; a third trust deed, dated March 27, 1981, secured the second loan; and a third trust deed, dated November 17, 1981 and superseding the March 27, 1981 trust deed, secured the refinancing of the March 27, 1981 obligation. R&T was designated trustee under each trust deed. The identity of the third party lenders was not disclosed.

On December 1, 1981, the corporate franchise of R&T was suspended, pursuant to California Revenue and Taxation Code Section 23301. On June 4, 1982, Integrity recorded a Substitution of Trustee, substituting P. D. McCarron for R&T as the trustee under the trust deed. Integrity thereafter executed a reconveyance deed signed by McCarron, to eliminate the refinanced March 1981 obligation.

King filed a Chapter 7 bankruptcy petition and on July 7, 1983, obtained a discharge of her debts in bankruptcy. Title to King's home remains vested in the bankruptcy trustee.

On May 23, 1983, Integrity disclosed to King the identity of the lenders in each of the disputed transactions. On May 26, 1983, King attempted to rescind under 15 U.S.C. §§ 1635(a) and (b), and 12 C.F.R. § 226. Integrity then sought to foreclose on the security interest in King's home in a trustee's sale set for September 14, 1983. King filed with the State of California a request for quo warranto proceedings under the California Code of Civil Procedure section 803 to prevent the foreclosure sale.

On September 14, 1983, King, on behalf of herself and a class of borrowers who had dealt with Integrity, filed suit in federal court against Integrity, the State, various State officials, and the third party lenders.

In October 1983, both Integrity and the State filed a motion to dismiss King's complaint for failure to state a claim. On October 18, 1983, King filed the first of two ex parte applications to continue the hearing on the motions to dismiss and to extend the time for filing a response to the motions. The court granted King an extension to October 24, 1983 to file her response. King failed to file her response by that date. On November 4, 1983, she filed a second ex parte application for a continuance. On November 7, 1983, the court held a hearing on the motion to dismiss. King did not appear. The court denied King's untimely motion for a continuance and dismissed the complaint with prejudice. King timely appeals.

II. DISCUSSION

A. *The Motion for Continuance*

King argues that the district judge abused his discretion by denying her unopposed second ex parte application for a continuance. She argues that although she did not physically appear for the motion, her filed papers constitute an "appearance." She then failed to appear for the scheduled hearing of the motion to dismiss on November 7.

[1] We cannot conclude on this record that the district judge abused his discretion in denying the motion for continuance. For the first of these motions, the judge extended the deadline for filing papers to October 24, 1983. That deadline expired without any action by King. Faced with an ex parte motion not attended by a movant who had failed to file her response even within an extended filing schedule, the district judge denied the motion for further continuance. Under the circumstances, we can find no abuse of discretion.

B. *The Motion to Dismiss*

Since the district judge had before him neither King as opposing party nor her opposition papers, he was empowered by Local Rules 7.6 and 7.10 to dismiss her complaint on those grounds. Because it is unclear whether the district court dismissed for failure to conform to the local rules or dismissed on the merits, in the interests of justice we review the dismissal of the federal claims as going to the merits. Such review is *de novo*. *See Compton v. Ide*, 732 F.2d 1429, 1432 (9th Cir. 1984).

[2] A dismissal for failure to state a claim will be upheld if it appears to a certainty that the plaintiff can prove no set of facts in support of her claim that would entitle her to relief. *Litchfield v. Spielberg*, 736 F.2d 1352, 1357 (9th Cir. 1984), *cert. denied*, 105 S.Ct. 1753 (1985). The allegations of a pro se complaint will be construed liberally. *Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (per curiam).

C. *Claims under the Truth-in-Lending Act*

King brings two sets of claims under TILA, one for rescission and one for damages for each of the three loans dated June 1979, March 1981, and November 1981.

1. *Rescission*

[3] If a lender fails to make the required material disclosures, TILA gives an obligor the right to rescind any credit transaction in which a security interest is created in the obligor's home. 15 U.S.C. Section 1635. King's claim for rescission of the June 1979 loan is barred by the three-year absolute limitation on rescission actions set out in 15 U.S.C. § 1635(f). The three years begin at the "consummation of the transaction or upon the sale of the property, whichever occurs first;" the period applicable to King began in June 1979 and expired in June 1982, more than a year before she filed suit.

[4] The loan of March 1981 cannot be rescinded, because there is nothing to rescind. King refinanced that loan in November 1981, and the deed of trust underlying the March 1981 loan has been superseded.

[5] As for the November 1981 loan, King's claim for rescissin fails, because Congress amended the TILA and Regulation Z, effective April 1, 1981, in such a way as to eliminate her cause of action for material nondisclosure. King contends that failure to disclose all third-party lenders was material nondisclosure. The amended Regulation Z did not include a general disclosure provision, but classified the disclosure requirement according to whether the credit transaction was "open-end" or "closed-end." The transaction here would qualify as closed-end, because it does not fit any of the definitions of an open-end credit transaction. *See* 12 C.F.R. § 226.2(20)(1985). In closed-end transactions, when there are multiple creditors, only the creditor making the disclosures need be identified on the disclosure statement. *Id.* § 26.18(a).

In addition, the new Regulation Z defines the term "material disclosures" as "the required disclosures of annual percentage rate, the finance charge, the amount financed, the total of payments and the payment schedule." *Id.* § 226.23 n.48. Under the new regulations, therefore, the identity of each creditor in a multiple creditor transaction is not a "material disclosure." Integrity's November 1981 loan thus did not violate the new Regulation Z, and King cannot rescind.

2. *Damages*

King contends that she can recover damages from Integrity for failing to disclose the identity of the third-party lenders.

[6] Damages are not available for the November 1981 loan for the same reason that rescission is not available. Under the amended regulations, it is not a material nondisclosure for Integrity to fail to disclose the identity of each creditor in this transaction.

The June 1979 and March 1981 loans, however, are subject to the old regulations, under which nondisclosure of the identity of a lender does give rise to civil liability. *Boncyk v. Cavanaugh Motors*, 673 F.2d 256, 260 (9th Cir. 1981); 15 U.S.C. § 1640(a). Integrity does not dispute this but contends that King's claims are barred by the one-year statute of limitations set out in 15 U.S.C. § 1640(e).

[7] Section 1640(e) provides that "[a]ny action under this section may be brought within one year from the date of the occurrance of the violation." We have not yet determined when a violation occurs so as to commence the one-year statutory period. *See Katz v. Bank of California*, 640 F.2d 1024, 1025 (9th Cir.), *cert. denied*, 454 U.S. 860 (1981). Three theories have been used by other circuits to determine when the

statutory period commences: (1) when the credit contract is executed; (2) when the disclosures are actually made (a "continuing violation" theory); (3) when the contract is executed, subject to the doctrines of equitable tolling and fraudulent concealment (limitations period runs from the date on which the borrower discovers or should reasonably have discovered the violation). *See Postow v. OBA Federal S&L Ass'n*, 627 F.2d 1370, 1379 (D.C. Cir. 1980) (adopting "continuing violation" theory in some situations); *Wachtel v. West*, 476 F.2d 1062, 1066-67 (6th Cir.), *cert. denied*, 414 U.S. 874 (1973) (rejecting "continuing violation" theory, statutory period commences upon execution of loan contract); *Stevens v. Rock Springs National Bank*, 497 F.2d 307, 310 (10th Cir. 1974) (rejecting "continuing violation" theory); *Jones v. TransOhio Savings Ass'n*, 747 F.2d 1037, 1043 (6th Cir. 1984) (applying equitable tolling and fraudulent concealment).

There are thus at least three ways to interpret Section 1640(e) so as to implement the purposes underlying TILA. Proponents of the "continuing violation" theory criticize a limitations period that runs from the consummation of the transaction because it would relieve lenders of liability even when their nondisclosures or fraud are continuing. Furthermore, lenders could structure the transaction so that borrowers could not discover the nondisclosure until one year from consummation had elapsed. *See Jones v. TransOhio Sav. Ass'n.*, 569 F.Supp. 1188, 1190-91 (N.D. Ohio 1983), *rev'd* 747 F.2d 1037 (6th Cir. 1984). Because borrowers may not discover the TILA violations until more than one year after the execution of the original contract, the "continuing violation" theory argues that it is inconsistent with the remedial and consumer-protection goals of the statute to bar suit when there is no reasonable way for the borrower to discover the wrong within the limitations period. *See Postow*, 627 F.2d at 1380.

On the other hand, those who favor a limitations period running from the execution of the contract contend that the language of § 1640(e), the TILA regulations, and the legislative history evince a congressional intent to terminate liability one year after consummation of the loan contract. *See Stevens*, 497 F.2d at 309. Congress did not intend, so the theory goes, to expose lenders to unpredictable and indefinite liability, stretching the length of a long-term mortgage, for example. This theory is bolstered by several arguments, none of which alone is dispositive but which taken together make a persuasive case against the "continuing violation" theory. First, the one-year limitation applies only to damage actions; rescission is available for three years. *See* 15 U.S.C. § 1635(f). Second, Congress placed a three year absolute limit on rescission actions, demonstrating its willingness to put a limit on some types of TILA actions. Third, the three year bar on rescission actions in Section 1635(f) begins at the "consummation of the transaction or upon the sale of the property, whichever occurs first," so at least in the rescission context, Congress did not intend to prolong the limitations period under a "continuing violation" theory. Last, the very existence of TILA imputes to the borrower knowledge of his rights. The burden then falls on the borrower to bring suit within a year from consummation if he or she suspects any violations.

[8] We reject the "continuing violation" theory as unrealistically open-ended. It exposes the lender to a prolonged and unforeseeable liability that Congress did not intend. *See Harvey v. Housing Development Corp.*, 451 F.Supp. 1198, 1202-3 (W.D. Mo. 1978). Moreover, the *Postow* case, which is the only Court of Appeals case to adopt the "continuing violation" theory, was careful to distinguish its facts from the facts of the cases which reject the "continuing violation" theory. 627 F.2d at 1380 n.22. In *Postow*, there was a gap between commitment and settlement, with the lender disclosing the required information only at settlement. *Id.* In the instant case, as in *Wachtel* and *Stevens*, the disclosures were not made until after settlement (i.e., consummation). *Postow* is thus not direct authority for applying the "continuing violation" theory to these facts.

[9] On the other hand, an inflexible rule that bars suit one year after consummation is equally inconsistent with legislative intent. Although the Act may impute to borrowers knowledge of their rights as consumers of credit, there may be situations in which a borrower consummates his loan and passes a year without knowing of his lender's fraud or nondisclosures.

We agree with the Sixth Circuit that equitable tolling might be appropriate in certain circumstances. To decide whether equitable tolling should apply to Section 1640(e), our basic inquiry is whether tolling the statute in certain situations will effectuate the congressional purpose of the Truth-in-Lending Act. *See Burnett v. New York Central R.R. Co.*, 380 U.S. 424, 427 (1965). The Supreme Court has repeatedly applied equitable tolling to statutes of limitations to prevent unjust results or to maintain the integrity of a statute. *See Bailey v. Glover*, 88 U.S. (21 Wall.) 342, 349-50 (1874) (Bankruptcy Act of 1867); *Exploration Co. Ltd. v. United States*, 247 U.S. 435, 449-50 (1918) (Act of March 3, 1891, 26 Stat. 1093, to vacate land patents); *Holmberg v. Armbrecht*, 327 U.S. 392, 396-7 (1946) (Federal Farm Loan Act); *Glus v. Brooklyn Eastern District Terminal*, 359 U.S. 231, 234-5 (1959) (Federal Employers' Liability Act). *Cf. Zipes v. Trans World Airlines*, 455 U.S. 385, 393 (1982) (Title VII time requirement for filing charges with Equal Employment Opportunity Commission).

Section 1601 of TILA sets forth the purpose of the Act:

> (a) The Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumers. It is the purpose of this subchapter to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit

15 U.S.C. § 1601(a). Thus, Congress through TILA sought to protect consumers' choice through full disclosure and to guard against the divergent and at times fraudulent practices stemming from uniformed use of credit. *See Mourning v. Family Publications Service, Inc.*, 411 U.S. 356, 363-4 (1973) (citing H.R. Rep. No. 1040, 90th Cong., 1st Sess., 13 n.18 (1967); S. Rep. No. 392, 90th Cong., 1st Sess. 1-2 n.19 (1967)). The courts have construed TILA as a remedial statute, interpreting it liberally for the consumer. *Riggs v. Government Employees Financial Corp.*, 623 F.2d 68, 70-71 (9th Cir. 1980). As the Sixth Circuit noted, "[o]nly if Congress clearly manifests its intent to limit the federal court's jurisdiction will it be precluded from addressing allegations of fraudulent concealment which by their very nature, if true, serve to make compliance with the limitation period imposed by Congress an impossibility." *Jones v. TransOhio Savings Ass'n.*, 747 F.2d at 1041.

[10] For these reasons, we hold that the limitations period in Section 1640(e) runs from the date of consummation of the transaction but that the doctrine of equitable tolling may, in the appropriate circumstances, suspend the limitations period until the borrower discovers or had reasonable opportunity to discover the fraud or nondisclosures that form the basis of the TILA action. Therefore, as a general rule the limitations period starts at the consummation of the transaction. The district courts, however, can evaluate specific claims of fraudulent concealment and equitable tolling to determine if the general rule would be unjust or frustrate the purpose of the Act and adjust the limitations period accordingly.

[11] Since fraudulent concealment and equitable tolling involve factual determinations, we remand King's damage claims for the June 1979 loan and the March 1981 loan. The district court should consider such evidence as it deems appropriate to decide whether the claims as to these two transactions are time barred.

D. *Civil Rights and Constitutional Claims*

[12] King's claims for violations of 42 U.S.C. §§ 1981, 1982, 1983, 1985 and the Fourteenth Amendment are all similarly flawed: either she fails to allege discrimination at all or her allegations are conclusory and unsupported by any facts. The complaint and its supporting documents establish that there is no set of facts that would entitle her to relief on these claims. *See Litchfield v. Spielberg,* 736 F.2d 1352, 1357 (9th Cir. 1984), *cert. denied,* 105 S.Ct. 1753 (1985) (articulating the standard for motions to dismiss). For the elements of civil rights cases, *see Central Building Contractors Ass'n v. Pennsylvania,* 458 U.S. 375, 388-91 (1982) (Section 1981); *Jones v. Community Redevelopment Agency,* 733 F.2d 646, 649 (9th Cir. 1984) (Section 1983); *Stonecipher v. Bray,* 653 F.2d 398, 401 (9th Cir. 1981), *cert. denied,* 454 U.S. 1145 (1982) (Section 1985); *Washington v. Davis,* 426 U.S. 229, 246-48 (1976) (Fourteenth Amendment).

E. *Pendent State Claims*

King brings several state claims pendent to her federal claims. She claims slander of title and conspiracy to slander title; she claims that the trust deeds are invalid because the trustee's (R&T) powers were suspended for non-payment of tax; and she claims that a suspended corporation cannot exercise the power of private sale foreclosure. She asks us to order the state to begin quo warranto proceedings against R&T.

[13] The district judge did not make clear the basis for his dismissal of the state claims. Rather than speculate on the grounds for his dismissal, we remand the state claims as pendent to the surviving federal claims. Because the future of the federal claims lies in the district court, it would be pointless for us to review the state claims now. If the federal claims are ultimately disposed of at summary judgment, the district judge would have the discretion to dismiss the pendent state claims. *Schultz v. Sundberg*, 759 F.2d 714, 718 (9th Cir. 1985). We intimate no view of the future of any of these claims; it is because their future is not predictable that we remand the state claims along with the federal ones.

F. *Claims against the State and Attorney-General*

King's claims against the State and its Attorney-General are vague and without a legal basis. She complains about civil rights violations, but her basis for these claims and the relief she seeks are nebulous at best. Her argument apparently is that the State is not enforcing the suspension of R&T's powers nor is it instituting quo warranto proceedings, thus violating the equal protection clause of the Fourteenth Amendment by not treating R&T as it would treat other corporations.

[14] We affirm the district court's dismissal of the State and the Attorney-General. Conclusory statements unsupported by allegations of unequal treatment that implicates constitutional safeguards do not set forth a claim. We need not resolve our serious doubts about her standing to sue for unequal treatment of R&T, but even if she was so injured by the State's alleged preferential treatment of R&T that she could claim standing, she makes no cognizable equal protection claim. The Attorney-General has broad discretion in granting or denying leave to sue in quo warranto, *City of Campbell v. Mosk*, 197 Cal.App.2d 640, 648, 17 Cal.Rptr. 584, 585 (1961), and King has alleged neither a suspect classification calling for strict scrutiny nor that the Attorney-General's inaction bears no rational relationship to any legitimate governmental purpose. *See Bunyan v. Camacho*, 770 F.2d 773, 774 (9th Cir. 1985).

III. CONCLUSION

To summarize, we hold that the district court properly dismissed all the federal claims except the TILA claims relating to civil damages under 15 U.S.C. § 1640 in connection with the June 1979 and March 1981 loans. King's complaint states a claim as to these two loans unless the district court, in applying the rule we set out for interpreting the statute of limitations in § 1640(e), finds that the claims are barred. We remand the state claims pendent to the surviving federal ones.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Each side shall bear its own costs and fees. "

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GWENDOLYN L. KING,et al,	)	NO.83-6427
	)	
Plaintiff(s)/Appellant(s)	)	USDC C CA
	)	
v.	)	NO.
	)	
STATE OF CALIFORNIA,et al,	)	CV83-5901R
	)	
Defendants/Appellees.	)	

FILED: May 08, 1986

ORDER

Before: FARRIS, PREGERSON, and NORRIS, Circuit Judges.

The panel as constituted in the above case has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc.

The full court has been advised of the suggestion for an en banc hearing, and no judge of the court has requested a vote on it. Fed. R. App. P. 35(b).

The petition for rehearing is denied

and the suggestion for a rehearing en banc is rejected.

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GWENDOLYN L. KING,et al,	NO.83-6427
Plaintiff(s)/Appellant(s)	USDC C CA
v.	NO.
STATE OF CALIFORNIA,et al,	CV83-5901R
Defendants/Appellees.	

FILED: May 13, 1986

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that GWENDOLYN L. KING, Petitioner(s)/Appellant(s), IN PRO SE, hereby appeal to the Supreme Court of the United States from the FINAL JUDGMENT entered in this action on March 7, 1986, APPELLANT(S) PETITION FOR REHEARING EN BANC denied and rejected by ORDER entered May 8, 1986. A copy of the published OPINION entered March 7, 1986 and a copy of the ORDER entered May 8, 1986 are attached.

This Appeal is taken pursuant to Title 28, USC §§1252, 1254, 2103, and/or Title 42 USC §1984 [sic], and under the United Nations Charter Treaty, Article 55, Article 56, and under the Treaty on Abolition of Slavery, Executive L, 88th Cong-1st Sess; Helsinki Accords.

DATED: May 12, 1986

/s/Gwendolyn L. King

PETITIONER(S)/APPELLANT(S)

o0o

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GWENDOLYN L. KING,et al,	)	NO.83-6427
Plaintiff(s)/Appellant(s)	)	USDC C CA
v.	)	NO.
STATE OF CALIFORNIA,et al,	)	CV83-5901R
Defendants/Appellees	)	

FILED: May 28, 1986

AMENDED NOTICE OF APPEAL

NOTICE: GWENDOLYN L. KING, Petitioner(s)/Appellant(s), IN PRO SE, hereby amend, supercede the MAY 12, 1986 NOTICE OF APPEAL filed MAY 13, 1986 herein, and hereby appeal to the United States Supreme Court from the FINAL JUDGMENT herein entered March 7, 1986, 86 L.A. Daily Journal D.A.R. 876, APPELLANT(S) PETITION FOR REHEARING EN BANC denied by ORDER entered MAY 08, 1986 which ORDER is attached.

This Appeal is taken pursuant to: 28

USC §1252, §1254, and/or §1257, and/or §2103; and/or 42 USC §1981, §1982, §1983, §1985; and Article VI Cl. 2 of the United States Constitution: United Nations Charter (Treaty), Articles 55, 56; Treaty on Abolition of Slavery...Institutions and Practices Similar, Executive L, 88th Cong 1st Sess; Helsinki Accords.

DATED MAY 27, 1986

/s/Gwendolyn L. King

PETITIONER(S)/APPELLANT(S)

o0o

LAW OFFICES

VOLK, NEWMAN, GRALLA & KARP

JAMES H. KARP, ESQ.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

GWENDOLYN L. KING,et al,	)	NO.
	)	
Plaintiff(s)	)	CV83-5901R
	)	
v.	)	
	)	
STATE OF CALIFORNIA,et al,	)	
	)	
Defendants.	)	

FILED: November 10, 1983

ORDER DISMISSING COMPLAINT

The Court finds:

1. Defendants, Integrity Home Loan Co. Inc., Patrick D. McCarron, and John Plummer filed herein their Motion to Dismiss Complaint [F.R.C.P. 12(b)(6)].

2. Plaintiff filed with the Court no written opposition to said Motion, and failed to enter an appearance at the time

and place of hearing on said Motion.

3. Upon consideration of the said Motion and good cause appearing, it is

ORDERED, that the defendants' Motion be granted and that the Complaint herein be and hereby is dismissed as to the above moving defendants, no leave to amend being granted.

DATED: November 10, 1983

/s/Manuel L. Real

United States District Judge

o0o

JOHN K. VAN DE KAMP, ESQ.
Attorney-General, California
HENRY G. ULLERICH, ESQ.
Deputy Attorney-General, California
[Handwritten at top of page.] "JS-6
Declaratory Judgment Filed 9/14/83 Court
Grants Motions to Dismiss 11/7/83"

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

GWENDOLYN L. KING,et al,	) NO.
Plaintiff(s)	) CV83-5901R
v.	)
STATE OF CALIFORNIA,et al,	)
Defendants.	)

FILED: November 10, 1983

ORDER

This cause came on for hearing on November 7, 1983 on the motion to dismiss the complaint by defendant John K. Van De Kamp, Attorney General of the State of

California, on the grounds of lack of jurisdiction by reason of the Eleventh Amendment to the United States Constitution (as to defendant State) and a lack of case or controversy as to said defendants and that the complaint fails to state a claim upon which relief can be granted against said defendants and the court having considered the pleadings and written argument, and being fully advised, it is,

ORDERED that the motion to dismiss by said defendants be granted and that the complaint be and it is hereby dismissed as to said defendants.

DATED: November 10, 1983

/s/Manuel L. Real

United States District Judge

o0o

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MINUTES FORM 11

Case No.CV83-5901R November 7, 1983

Gwendolyn L. King v California et al

DOCKET ENTRY vu

PRESENT: HON. MANUEL L. REAL,Judge

Loyette Fisher, Deputy Clerk

Florence Garcia, Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: N/A

ATTORNEYS PRESENT FOR DEFENDANTS:

James H. Karp,Esq.

Henry G. Ullerich,Esq.

PROCEEDINGS: Defendants Integrity Home Loan Co., Patrick D. McCarron & John Plummers' [sic] motion to dismiss the complaint. Defendants State of California & John K. Van De Kamps' [sic] motion to dismiss.

[Different typewriter] Plaintiff's ex

parte application for continuance of motion to dismiss.

Hearing held and Court rules that the plaintiff's ex parte application comes to [sic] late after being filed on Friday at 4:37 P.M. Court grants the defendants motions to dismiss the complaint. Counsel to prepare the order.

[NINTH CIRCUIT CR DOC. NO.19]

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SUPREME COURT OF THE UNITED STATES

No.A-1050

GWENDOLYN L. KING,

Applicant,

v.

CALIFORNIA, ET AL

O R D E R

UPON CONSIDERATION of the application of applicant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cause be, and the same is hereby, extended to and including September 5, 1986.

/s/William H. Rehnquist

Associate Justice of the Supreme Court of the United States

Dated this 11th day of July, 1986.

CAPRICE L. COLLINS, ESQ.

Attorney for Plaintiffs

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In re:	) Bankruptcy No.
GWENDOLYN L. KING aka	) SA83-01703PE
GWENDOLYN L. GREENE aka	) CHAPTER 7
GWEN GREENE,	) Adversary No.
Debtor.	) SA83-2194PE
	) Oct 18, 1983
INTEGRITY HOME LOAN CO., INC., LONNIE KAPLAN and SIMA KAPLAN	) 10:00 a.m.
	) Courtroom 523
Plaintiffs,	
vs.	
GWENDOLYN L. KING aka	
GWENDOLYN L. GREENE aka	
GWEN GREENE,	
Defendant.	

FILED: OCT 25, 1983 ENTERED: OCT 28, 1983

ORDER

GRANTING LEAVE TO FORECLOSE AND

RELIEF FROM AUTOMATIC STAY

Trial on Plaintiff's Request for Relief from Automatic Stay came on regularly on October 18, 1983, Courtroom 523 of the above entitled Court. Plaintiff was represented by its counsel, Caprice L. Collins; Defendant/Debtor was not represented and was not present in Court.

The Court, ~~having considered the evidence~~ ~~Court~~ [deletion initialed PE] record and oral argument advanced, made its Order as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Plaintiffs are permitted to perfect foreclosure proceedings on the subject property generally described as 4401 Don Diablo Drive, Los Angeles, California 90008;

2. That Plaintiffs shall be entitled to all amounts due and owing them including but not limited to arrearages, principal, interest, attorny's fees, foreclosure fees, and late charges; and

3. That all restraining Orders and Automatic Stays with respect to this proceeding and to any subsequent proceedings which involve the subject property and the defendant herein and/or their assignee(s) or successor(s) in interest are hereby vacated, extinguished and terminated.

DATED: OCT 25, 1983

/s/Peter Elliott

United States Bankruptcy Judge

[Handwritten at bottom.] "default epk"

2. That Plaintiffs shall be entitled to all amounts due and owing them including but not limited to arrearages, principal, interest, attorny's fees, foreclosure fees, and late charges; and

3. That all restraining Orders and Automatic Stays with respect to this proceeding and to any subsequent proceedings which involve the subject property and the defendant herein and/or their assignee(s) or successor(s) in interest are hereby vacated, extinguished and terminated.

DATED: OCT 25, 1983

/s/Peter Elliott

United States Bankruptcy Judge

[Handwritten at bottom.] "default epk"

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STATE OF CALIFORNIA

OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF FILING AND SUSPENSION

I, MARCH FONG EU, Secretary of State of the State of California, hereby certify:

That on the 1st day of December, 1981 pursuant to the provisions of the California Bank and Corporation Tax Law, more particularly Section 23302 of the Revenue and Taxation Code, the Franchise Tax Board transmitted a list to this office containing the names of domestic corporations whose corporate powers, rights and privileges have been suspended under said law.

Further, that thereupon certain entries were made in the records of this office pertaining to the corporations named in said list for the purpose of setting forth suspension and that one of the corpora-

tions so listed and of record in this office is R & T FINANCIAL SERVICING CO., INC #741028, Name, Corporation Number.

Further that the corporate powers, rights and privileges of said corporation were suspended on the aforesaid date [December 1, 1981] as in said Section 23302 provided and that the records in this office relating to said corporation are in the inactive files, reinstatement never having been effected.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this 7th day of June, 1983

SEAL OF THE STATE OF CALIFORNIA

/s/March Fong Eu
Secretary of State

oOo

RECORDING REQUESTED BY
Lonnie & Sima Kaplan
9750 El Arco Drive
Whittier, CA 90603

83-1520834
RECORDED IN
OFFICIAL RECORDS
RECORDER'S
OFFICE
LOS ANGELES
COUNTY
CALIFORNIA

1 MIN PAST 11 A.M. DEC 22 1983

TRUSTEE'S DEED UPON SALE T.S.NO.4267

The undersigned grantor declares

(1) The grantor herein was the foreclosing beneficiary.

(2) The amount of the unpaid debt together with costs was $44,032.86.

(3) The amount paid by the grantee at the trustee sale was $44,032.86.

(4) The documentary transfer tax is -0-.

(5) Said property is in the City of Los Angeles, and R & T Financial Servicing

Co., Inc., A California Corporation (herein called Trustee), as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without warranty, express or implied, to Lonnie Kaplan and Sima Kaplan, husband and wife as Community Property, (herein called Grantees), all of its right, title and interest in and to that certain property situated in the City of Los Angeles, County of Los Angeles, State of California, described as follows: Lot 8 of Tract 17452 as per map recorded in book 481 pages 28 to 31 inclusive of maps, in the office of the county recorder of said county.

TRUSTEE STATES THAT:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated November 17,

1981 and executed by Gwendolyn L. King as Trustor, and recorded December 10, 1981 as Instrument No.81-1214615 of Official Records of Los Angeles County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the Recorder of said County.

All requirements of law regarding the mailing of copies of notices Default and Trustee Sale and the posting and publication of copies of the Notice of Sale have been complied with.

Said property was sold at public auction on October 25, 1983 at the place named in the Notice of Sale, in the County of Los Angeles, California, in which the property

is situated. Grantees, being the highest bidder at such sale, became the purchaser of said property and paid thereafter to said Trustee the amount bid, being $44,032.86. in lawful money of the United States, or by satisfaction pro tanto, of the obligation then secured by said Deed of Trust.

In Witness Whereof, said R & T Financial Servicing Co., Inc., A California Corporation as Trustee has this day caused its corporate name and seal to be hereunto affixed by its Assistant Vice-President thereunto duly authorized by resolution of its Board of Directors.

STATE OF CALIFORNIA)
)ss.
COUNTY OF LOS ANGELES)

On December 21, 1983, before me, the undersigned, a Notary Public in and for said State, personally appeared Adrienne

Rivas known to me to be Assistant Vice-President, the Corporation that executed the within instrument as Trustee, known to me to be the persons who executed the within instrument on behalf of the Corporation and acknowledged to me that said Corporation executed the same as Trustee.

WITNESS my hand and and official seal,

/s/S. Robert Groot

R & T Financial Servicing Co., Inc.

as Trustee aforesaid

By /s/Adrienne Rivas, Asst Vice-Pres.

By OFFICIAL SEAL OF S. ROBERT GROOT,
NOTARY PUBLIC CALIFORNIA
LOS ANGELES COUNTY
OFFICIAL SEAL OF STATE OF
CALIFORNIA
[NO CORPORATE SEAL OF R & T
FINANCIAL SERVICING CO., INC.]

ooo

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Plaintiffs

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

LONNIE KAPLAN and SIMA KAPLAN, Plaintiffs, vs. GWENDOLYN L. KING aka GWENDOLYN GREENE and GWEN GREENE and Does I through XX, Inclusive, Defendants.	Case No. A65170 COMPLAINT FOR UNLAWFUL DETAINER [Missing Exhibits "B", "C", "E"]

FILED & SUMMONS ISSUED JAN 05, 1984

Plaintiffs complain of the defendants and for cause of action allege:

1. Plaintiffs are the owners of and

entitled to immediate possession of the real property in Los Angeles County, California more particularly described as 4401 Don Diablo Drive, Los Angeles, California 90008 by virtue of a foreclosure sale duly held on October 27, 1983.

2. Defendant GWENDOLYN KING aka GWENDOLYN GREENE and GWEN GREENE is a resident of the County of Los Angeles and in possession of the above-described real property.

3. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as DOES I through XX, inclusive, and therefore sues those defendants by such fictitious names. Plaintiffs will amend this Complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe and thereon allege that each of such fictiti-

ously named defendants is in possession of the premises.

4. The real property, possession of which is sought in this action is situated in Los Angeles County, California.

5. Plaintiffs were the beneficiaries of a Promissory Note dated November 17, 1981. Performance under the note was secured by a Deed of Trust recorded in the official records of Los Angeles County, California noted as Document No.81-1214615 mortgaging the property located at 4401 Don Diablo Drive, Los Angeles, California 90008 (hereinafter "the property"), which is more particularly described in the copy of the Deed of Trust. By said Deed of Trust GWENDOLYN KING conveyed said property to the trustee R & T Financial Servicing Co., Inc., as security for the payment of a Promissory Note dated November

17, 1981 in the principal amount of $32,000.00 payable to beneficiaries. A copy of said Deed of Trust and Promissory Note are attached hereto as Exhibits "A" and "B" and made a part hereof [This Court is requested to take Judicial Notice that Exhibit "B", alleged Promissory Note dated November 17, 1981,/s/Gwendolyn L.King, attachment to LAMC Unlawful Detainer Complaint, was and is missing because on November 17, 1981 Gwendolyn L. King did not sign a Promissory Note under Trust Deed No.81-1214615 which Trust Deed was signed in blank before Integrity, Inc. told her they did not have a Lender for the some $32,000.00 listed thereon the Trust Deed No.81-1214615].

6. Defendant KING defaulted in the payment of said Promissory Note, and thereafter, on July 28, 1982, at the request

of the plaintiffs, said trustee caused to be recorded as Document No.82-755833 of the official records in the Office of the County Recorder of Los Angeles County, California, a Notice of Default and breach of conditions of said Deed of Trust and its election to sell said property to satisfy the obligations thereby secured.

7. Thereafter, on October 27, 1982, Defendant KING filed her first bankruptcy petition, case number LAX82-17781BR. As a result, Plaintiffs herein filed a Complaint for Relief from Stay on November 24, 1982, adversary number LAX82-43130BR. On December 6, 1982, the Summons and Complaint were timely served upon Defendant and the Chapter 13 Trustee [ELSIE DAVIS], to which Plaintiffs received no timely written response [This Court is requested to take Judicial Notice that adversary

complaint was filed November 29, 1982 and Summons in adversary case LAX82-43130BR was issued December 3, 1982 with Answer due December 20, 1982, and received by KING on or about December 18, 1982, ANSWER and COUNTER-COMPLAINT served and filed within twenty (20) days of December 3, 1982, by KING, on December 22, 1982, and no reply was made to the COUNTER-COMPLAINT nor did the PlAINTIFFS/CROSS-DEFENDANTS, Integrity, Inc., Lonnie Kaplan, S Sima Kaplan, or their Attorney of Record CAPRICE L. COLLINS, ESQ. appear at "Trial" December 27, 1982 as more fully described on page 37 of the herein attached JURISDICTIONAL STATEMENT, NO.A-1050, and further there is no record that "appeal was denied by the United States District Court on February 22, 1983"]. At trial on the matter on December 27, 1982, the

Honorable Barry Russell granted Plaintiffs their Order for Relief from Automatic Stay A true and correct copy of this Order is attached hereto as Exhibit "C" [This Court is requested to take Judicial Notice that Exhibit "C" was missing and that on or about March 29, 1984, the entire case file in LAMC No.A65170 was reported missing by affidavit of MAYRA PINO, Supervisor Civil Files.] Thereafter, on January 11, 1983, said Defendant KING attempted to appeal said order, but said appeal was denied by the United States District Court on February 22, 1983 [This Court is requested to take Judicial Notice that USBC C CA Clerk JACK WAGNER simply purported to "unfile" the filed January 11, 1983 NOTICE OF APPEAL by returning the Original to KING with no explanation.]

8. Thereafter, on April 12, 1983, Def-

endant KING filed her second bankruptcy petition in the United States District Court in Santa Ana, California. The case number assigned was SA83-01703PE. On September 23, 1983, Plaintiffs filed their second Complaint for Relief from Stay, adversary number SA83-2194PE [This Court is requested to take Judicial Notice that on July 11, 1983, moments before KING'S Discharge of all debts was granted, in 11 USC CHAPTER 7 Liquidation Petition, case No.SA83-01703PE, In re King, adversary complaint No.SA83-2194PE, Integrity, Inc., Lonnie Kaplan, Sima Kaplan v Gwendolyn King (TRUSTEE NOT NAMED), was dismissed, for lack of Service of Summons & Complaint in case No.SA83-2194PE on KING and/or the 11 USC CHAPTER 7 Court Trustee JAMES JOSEPH, ESQ., --that on September 14, 1983 KING filed, had Summons issued

in the herein USDC C CA Case No.CV83-5901 R, King et al v California, Integrity,Inc Lonnie Kaplan, Sima Kaplan et al, 784 F 2d 910 (9th Cir 1986) (SEE p.A-4 of the Opinion of Ninth Circuit Judge FARRIS - therein said Case on Appeal herein), and on September 14, 1983, Integrity, Inc. was served with Summons & Complaint in USDC C CA Case No.CV83-5901R and on December 12, 1983, Lonnie Kaplan, Sima Kaplan, were served with Summons & Complaint in USDC C CA Case No.CV83-5901R.] On September 23, 1983, Plaintiffs filed their second Complaint for Relief from Stay, adversary number SA83-2194PE. On September 23, 1983, the Summons and Complaint were timely served upon Defendant and Chapter 7 Trustee, James Joseph, to which Plaintiffs received no timely response. At trial on this matter on October 18,

1983, the Honorable Peter Elliott granted Plaintiffs their Order for Relief from Automatic Stay. A true and correct copy of this Order is attached hereto as Exhibit "D".[This Court is requested to take Judicial Notice that on January 4, 1984, the Plaintiffs herein LAMC No. A65170, Kaplan v King,(filed January 5, 1984,)filed but did not serve a Rule 12 (b)(6),FRCP MOTION TO DISMISS as Defendants in USDC C CA No.CV83-5901R, King et al v California, Integrity, Inc., Kaplan, supra; CA9 No.84-7097, U.S. S.C. NO.84-695, King et al v Real, USDC C CA, Integrity, Inc., Kaplan, et al, 105 S Ct Rptr 768 no. 5 (1984).]

9. On August 19, 1983, more than three months after recordation of said Notice of Default, said trustee [R & T Financial Servicing Co., Inc.] gave notice in the

manner and form required by Sections 2924 of the Civil Code and 692 of the Code of Civil Procedure that said property would be sold at public auction on September 14 1983 at Los Angeles County, California to satisfy the obligations secured by said Deed of Trust. A copy of said trustee's sale notice [R & T Financial Servicing Co. Inc.] is attached hereto as Exhibit "E". Thereafter, said sale was postponed until October 25, 1983. [Date in paragraph 1 of LAMC No.A65170 listed as October 27, 1983]

10. On October 25, 1983 in Los Angeles County, California, the [December 1, 1981 defunct "California Corporation" R & T FINANCIAL SERVICING CO.,INC. Trustee in Foreclosure] trustee sold [for no cash] the property to plaintiffs, and on said day, executed and delivered to plaintiffs a deed [R & T FINANCIAL SERVICING CO.,

INC. TRUSTEE'S DEED UPON SALE NO.4267, herein APPDX p. 35 .] therefor which said deed was recorded on December 22, 1983 as Document No.83-1520834 in the official records in the office of the County Recorder of Los Angeles County, California. A copy of the [R & T FINANCIAL SERVICING CO., INC.] Trustee's Deed Upon Sale [NO. 4267] is attached hereto as Exhibit "F" and made a part hereof.

11. On December 28, 1983, in Los Angeles County, California, plaintiffs [Defendants LONNIE KAPLAN, SIMA KAPLAN in USDC CA Case No.CV83-5901R, King et al v California, Integrity, Inc., Kaplan, served on KAPLANS on December 12, 1983.] caused to be served on defendant a written notice [sent in mail] requiring her to quit and deliver up possession of said premises to plaintiffs within three (3) days after

service of said notice. A copy of said notice and proof of service of said notice are attached hereto as Exhibits "G" and "H" and made a part hereof.

12. More than three (3) days have elapsed since the service of said notice [alleged Posting of Notice on property by A & V PROCESSING SERVICE, 451 W. Manchester #103, Inglewood, CA 90301], but defendants have failed and refused to deliver up possession of said premises.

13. Defendants continue in possession of said premises without plaintiffs permission or consent. Such continuance in possession by defendants are [sic] willful, intentional, deliberate and obstinate

14. The reasonable value of the use and occupancy of said premises in the sum of $33.00 per day, and damages to plaintiffs caused by defendant's unlawful detention

thereof have accrued at said rate since December 31, 1983 and will continue to accrue at said rate so long as defendant remains in possession of said premises.

WHEREFORE, Plaintiffs pray for judgment against defendant for:

1. Restitution of said premises;

2. Damages at the rate of $33.00 per day for each that defendants continue in possession of said premises, and that said amount be trebled;

3. Costs of suit incurred herein; and

4. For any further relief as the Court may deem just and proper.

DATED: January 1, 1984

/s/Caprice L. Collins

CAPRICE L. COLLINS,ESQ.

Attorney for Plaintiffs

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MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

Hon. Clarence STROMWALL, Judge, Cal No.2

SHEAD, Deputy Clerk LAW & MOTION DIV 2

Case No.A65170 Kaplan vs King aka Greene

For Plaintiff: COLLINS,ESQ. 2-10-84

For Defendant: IN PRO PER 2-10-84

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANT GWENDOLYN L. KING aka GWENDOLYN L. GREENE aka GWEN GREENE, TO SQUASH SERVICE OF SUMMONS & COMPLAINT AND TO STRIKE COMPLAINT FOR UNLAWFUL DETAINER

[S & C sent by mail 1-12-84,MOT FILED 1-17-84]

FILED:FEB 10,1984

DISPOSITION:

MOTION TO SQUASH DENIED.

MOTION TO STRIKE DENIED.

DEFENDANT HAS 5 DAYS TO ANSWER.

PLAINTIFF TO PREPARE ORDER TO GIVE NOTICE.

GW

Great Western Savings and Loan Association

P.O. Box 1900 Northridge, CA 91328

February 16, 1984

Gwendolyn L. King

4401 Don Diablo Drive

Los Angeles, CA 90008

Dear Ms. King:

Re: Loan No.0-145537-9

Your letter of February 1, 1984 has been referred to me for reply.

In point No.1, regarding title to your property, you contend that title is still vested in the bankruptcy court. Although your bankruptcy trustee had an interest in your property, we have in our possession (a copy is enclosed for your records) a disclaimer signed by your trustee James Joseph.

In point No.2, you stated that a previous

Notice of Default has never been rescinded. If that is the case, we will discover it with our current Notice of Default through our title company's title search, and if it is still of record, our Trustee California Reconveyance Company, will see to the proper recording of the rescision [sic] prior to our current Notice of Default's recording.

In point No.3, you requested an annual loan statement for 1983. As you made no payments to us in 1983, you paid no interest and no taxes. Your loan balance, as of December 31, 1983, was $28,483.35.

As for your request for a copy of our Notice of Default, you will receive this as soon as it is properly recorded. The initial recording of January 27, 1984 is being rescinded and a new Notice of Default will be recorded.

Should you require additional information, please feel free to contact us.

Sincerely,

/s/Jeff S. Yablan

JEFF S. YABLAN

Sr. Loan Service Officer

Service Unit 7

(818) 701-2075

A SAVINGS ASSOCIATION OF GREAT WESTERN FINANCIAL CORPORATION

MEMBER FEDERAL HOME LOAN BANK SYSTEM

MEMBER FSLIC

o0o

GW

Great Western Savings and Loan Association

P.O. Box 1900 Northridge, CA 91328

May 24, 1983

RECEIVED

June 16, 1983

SPECIALIZED

SERVICES

James Joseph

1801 Century Park East, Suite 140

Los Angeles, CA 90067

Re: Bankruptcy Case No.SA83-01703PE

Debtor: King, Gwendolyn L.

Great Western Loan No.0-145537-9

Dear Mr. Joseph:

We would appreciate receiving confirmation that you, as Trustee in the above referenced bankruptcy matter, claim no interest in the real property located at 4401 Don Diablo Drive, Los Angeles, California. This property is the security for

the above referenced Great Western Savings loan. If the foregoing statement is correct, please sign below and return the original of this letter to me. A stamped self-addressed envelope is enclosed for your convenience.

Thank you.

Sincerely,

/s/Amy Cox

AMY COX

Assistant Secretary

ac

encls.

This will confirm, that I, James Joseph, as Trustee, claim no interest in the real property located at 4401 Don Diablo Drive Los Angeles, California.

/s/James Joseph 6/11/83

JAMES JOSEPH DATE

[handwritten, underlined] no

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Defendants

Lonnie Kaplan, Sima Kaplan

[Handwritten at top] "CLOSED ENTR

Complaint for Declaratory Judgment

FILED 9/14/83

2/6/84--COURT GRANTS MOTION TO

DISMISS THE COMPLAINT"

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Gwendolyn L. King,et al,	) NO.CV83-5901R
Plaintiff(s)	) ORDER
v.	) DISMISSING
California, Integrity Home	) COMPLAINT
Loan Co., Inc., Lonnie Kap-	) Feb 6, 1984
lan, Sima Kaplan, et al,	) 10:00 a.m.
Defendants.	) Courtroom 14

FILED Feb 06,1984 ENTERED Feb 28,1984

The Court finds:

1. Defendants, LONNIE KAPLAN and SIMA KAPLAN, filed herein their Motion to Dismiss Complaint [F.R.C.P. 12(b)(6)]. [on January 4, 1984 but did not serve Plaintiff KING until Saturday, January 21, 1984, the subject of PETITION FOR WRIT OF PROHIBITION/MANDAMUS, King et al v Real, USDC C CA, Integrity, Inc., Kaplan, CA9 No.84-7097, served February 5, 1984, U.S. S.C. NO.84-695, 105 S Ct Rptr 768 no. 5 (1984)]

2. Plaintiffs filed with the Court no written opposition to said Motion, and failed to enter an appearance at the time and place of hearing on said Motion.

3. Upon consideration of the said Motion and good cause appearing, it is

ORDERED, that the Defendants' Motion be granted and that the complaint herein be and hereby is dismissed as to the above-mwntioned moving Defendants, with preju-

dice.

DATED: FEB 27, 1984

/s/Manuel L. Real

MANUEL L. REAL

United States District Judge

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

Gwendolyn L. King, etc.	NO.C486-610
Petititioner	(LAMC NO.
vs.	A65170)
Municipal Court of Los	PETITION FOR
Angeles Judicial District,	WRIT OF
Clarence Stromwall, LAMC	MANDATE TO
Judge,	COMPEL LAMC
Respondents,	TO SQUASH
Lonnie Kaplan, Sima	SERVICE OF
Kaplan,	SUMMONS
Real Parties In Interest.	(FILED 2-15'84)

ORDER FILED March 5, 1984

The court having read and considered the Petition for Writ of Mandate in the above entitled matter, now makes the following order:

Petition denied. Request for findings of fact and conclusions of law denied.

(See Rule 232 California Rules of Court and Code of Civil Procedure §632).

DATED: March 5, 1984

HON. HAROLD E. SHABO
Judge of Superior Court
State of California
Los Angeles County

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MUNICIPAL COURT LOS ANGELES JUDICIAL DIST

[Mimeo form] --CIVIL DIVISION--DIV 08

COUNTY OF LOS ANGELES, CALIFORNIA

Plaintiff: Lonnie Kaplan, Sima Kaplan

Defendant: Gwendolyn L. King

ORDER FOR ENTRY OF DEFAULT BY COURT ON COMPLAINT FILED MAR 9,84 NO.A65170

It appearing to the Court from an examination of the records and files in this action that Defendant(s) Gwendolyn L. King aka Gwendolyn L. Greene aka Gwen Greene has been duly served with a copy of the Summons and Complaint in the manner required by law, to wit: C.C.P.415.10; and that the Defendant(s) has [sic] failed to answer the Complaint, and the time for answering having expired, the default of said Defendant(s) is hereby ordered entered. By: (initials) Law student

DATED:3-8-84 [stamped]John D. Harris,Comm

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Plaintiffs

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

LONNIE KAPLAN and	)	Case No.
SIMA KAPLAN,	)	A65170
Plaintiffs,	)	AMENDED
vs.	)	DECLARATION FOR
GWENDOLYN L. KING aka	)	JUDGMENT FOR
GWENDOLYN GREENE and	)	FAILURE TO
GWEN GREENE and Does	)	ANSWER
I through XX, Inclu-	)	[C.C.P.§585(d)]
sive,	)	FILED MAR 13,1984
Defendants.	)	
STATE OF CALIFORNIA	)	
	)ss	
COUNTY OF LOS ANGELES	)	

I, LONNIE KAPLAN, declare as follows:

1. The facts stated in this declara-

tion are within my personal knowledge and if sworn, I can testify competently thereto.

2. I am one of the plaintiffs in the above entitled action and am the legal owner of the premises located at 4401 Don Diablo Drive, Los Angeles, California 90008, City of Los Angeles, County of Los Angeles, State of California. That prior to the filing of this action [January 5, 1984], I became legal owner of the real property by virtue of a foreclosure sale duly held on October 27, 1984 [R & T TRUSTEE'S DEED NO.4267 states October 25, 1983].

3. Thereafter, the defendant has continued to maintain possession of the premises without my permission or consent.

4. On December 28, 1983, I caused to be served upon each defendant a Three-Day

Notice to Quit, in writing, to deliver and surrender the possession of said premises to me at the expiration of three days, from December 28, 1983.

5. That more than three days had elasped and a Summons and Complaint were served on January 11, 1984 [by mail, received by KING on January 12, 1984].

6. That on January 17, 1984, Defendant filed a Motion to Squash Service of the Summons and Complaint and Motion to Strike the Complaint for Unlawful Detainer. That on February 10, 1984, at the hearing on the motion, the Court denied Defendant's motion and granted her five (5) days to answer the unlawful detainer complaint. That on February 13, 1984, my attorney filed and served notice of this ruling upon the Defendant. A true and correct copy of the notice and its proof

of service is attached hereto as Exhibit "A' and made a part hereof [No Exhibit "A" attached.]

7. That more than five (5) days have elasped since the hearing and Defendant has failed to file and serve her answer upon me and my counsel. That more than fifteen (15) days have elasped since Defendant received notice of said denial.

WHEREFORE, this declarant prays that this Court render its judgment by default and issue its Writ of Execution for Possession of Real Property against the defendant for restitution of said premises; for judgment in the sum of $2,793.00 plus the sum of $33.00 per day for such time a as the Defendant occupies said premises, $1,000.00 for attorney's fees together with court costs in the sum of $77.00.

I declare under penalty of perjury

that the foregoing is true and correct.

Executed on March 7, 1984 in Los Angeles, California.

[Not his signature]

/s/Lonnie Kaplan

LONNIE KAPLAN

Declarant

oOo

CAPRICE L. COLLINS, ESQ.

Attorney for Judgment Creditor

MUNICIPAL COURT OF LOS ANGELES

Plaintiff: LONNIE KAPLAN and SIMA KAPLAN

Defendant: GWENDOLYN L. KING aka GWENDOLYN GREENE aka GWEN GREENE

Case No.A65170 ISSUED ON MAR 13 1984

WRIT OF POSSESSION OF REAL PROPERTY

1. To the Sheriff or any Marshal or Constable of the County of Los Angeles

   You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or 715.040.

3. Judgment Creditor LONNIE KAPLAN and SIMA KAPLAN

4. Judgment Debtor GWENDOLYN KING aka

GWENDOLYN GREENE aka GWEN GREENE

4401 Don Diablo Drive

Los Angeles, CA 90008

5. Judgment entered on MAR 13 1984

6. N/A

7. Notice of sale under this writ has not been requested.

8. N/A

9. Real property to be delivered under a writ of possession or sold under a writ of sale is described on reverse [No.9]

10. N/A

11. Total judgment $-0-

12. Costs after judgment $-0-

13. Subtotal $-0-

14. Credits $-0-

15. Subtotal $-0-

16. Interest after judgment $-0-

17. Fee for issuance of writ $-0-

18. Total $-0-

19. Levying officer: Add daily interest from date of writ $-0-

20. N/A

EDWARD M. KRITZMAN, Clerk of Court

by /s/Wm Crosson, Deputy

W. CROSSON

(REVERSE SIDE OF WRIT OF POSSESSION OF REAL PROPERTY ISSUED MAR 13 1984 LAMC)

CASE NO.A65170 KAPLAN vs KING

9. Judgment was entered for the following: Possession of real property: Single family dwelling located at 4401 Don Diablo Drive, County of Los Angeles, State of California. [Handwritten, initialed WC] "Complaint filed 1-5-84"

SEAL OF

MUNICIPAL COURT LOS ANGELES JUDICIAL DIST

Approved by Judicial Council CI-75JC

CALIFORNIA COURT OF APPEAL

Second District Division 1

GWENDOLYN L. KING	NO.B004133
aka GWENDOLYN L. GREENE	(L.A. Superior
aka GWEN GREENE	Ct No.C486-610
Petitioner	L.A. Muni Ct
v.	No.A65170)
MUNICIPAL COURT OF	PETITION FOR
STATE OF CALIFORNIA	WRIT OF MANDATE
FOR COUNTY OF LOS	TO COMPEL LAMC,
ANGELES; STROMWALL	STROMWALL, TO
Respondents	SQUASH SERVICE
LONNIE KAPLAN, SIMA	OF SUMMONS
KAPLAN	
Real Parties	

ORDER FILED MAR 14 1984

THE COURT:

The petition for writ of mandate, filed March 12, 1984, has been read and considered. The petition is denied.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GWENDOLYN L. KING, et al	NO.84-7097
Petitioner(s)	USDC C CA
v.	NO.CV83-5901R
UNITED STATES DISTRICT	PETITION FOR
COURT FOR THE CENTRAL	WRIT OF
DISTRICT OF CALIFORNIA;	PROHIBITION/
REAL, RUSSELL, ELLIOTT,	MANDAMUS RE:
BROSNAN, et al	FEB 06, 1984
Respondents	HEARING ON
INTEGRITY HOME LOAN CO.,	KAPLANS' RULE
INC., LONNIE KAPLAN,	12(b)(6)
SIMA KAPLAN	MOTION TO
Real Parties	DISMISS

ORDER FILED APR 10 1984

Before: WALLACE, ANDERSON and TANG, Circuit Judges

This petition for a writ of mandamus is denied. Petitioner may raise any

assignment of district court error in CV 83-5901R in her direct appeal, King v California, No.83-6427, now pending before this court.

o0o

IN THE

SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

ORDER DENYING HEARING

AFTER JUDGMENT BY THE COURT OF APPEAL

2d District, Division 1

No.B004133

FILED APR 18 1984

GWENDOLYN L. KING

Petitioner

v.

MUNICIPAL COURT OF COUNTY OF LOS ANGELES;

STROMWALL

Respondents

LONNIE KAPLAN, SIMA KAPLAN

Real Parties In Interest.

Petition for hearing DENIED.

/s/Bird,C.J., Chief Justice

oOo

RECEIPT FOR POSSESSION OF REAL PROPERTY

KAPLAN vs KING Case No.LAMC A65170

Received from the Marshal of Municipal Courts, Los Angeles County, State of California, quiet and peaceable possession of the premises described in the Writ of Possession of Real Property [ISSUED MAR 13 1984 By EDWARD M. KRITZMAN Clerk of LAMC per Deputy Clerk WM CROSSON on Complaint filed 1-5-84]

DATED /s/Lonnie Kaplan 4-19-84

[His signature]

76P475X-(A)

oOo

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

Hon. Clarence STROMWALL, Judge, Cal No.2

SHEAD, Deputy Clerk LAW & MOTION DIV 2

Case No.A65170 Kaplan vs King aka Greene

For Plaintiff: COLLINS, ESQ. 4-20-84

For Defendant: IN PRO PER 4-20-84

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANT--
GWENDOLYN L. KING aka
GWENDOLYN L. GREENE
aka GWEN GREENE
(Filed Apr 10, 1984)
TO SET ASIDE AND
VACATE DEFAULT
JUDGMENT AND RECALL
WRIT OF POSSESSION
OF REAL PROPERTY.

FILED: APR 20,1984

DISPOSITION:

DEFENDANT'S EXHIBIT "A" FILED--
OPENING BRIEF
U.S. NINTH CIRCUIT
NO.83-6427, King
et al v California

MOTION DENIED

Court finds:
No grounds for relief exists.

DISPOSITION (Continued)

No meritorious defense.

ORDERED:

1. Stay of Execution of MAR 13 1984 Writ of Possession of Real Property terminated at 4-20-1984.

2. If prior posting, no new 5 day Notice required.

3. Bailiff to notify Marshal.

4. Plaintiff to give Notice.

Culver City

Marshal notified

& copy sent. A.P. Zuniga #99

Deputy Marshal

RECEIVED MARSHAL'S DIVISION

LOS ANGELES '84 APR 20 PM12:01

o0o

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

RETURN ON EXECUTION Case No.A65170

(Possession of Real Property)

I, the undersigned, Marshal of Municipal Courts, Los Angeles County, State of California, hereby certify that I received the annexed Writ of Execution (Possession of Real Property) on the date endorsed thereon by me.

I certify that I served a copy of the Writ and a 5-day notice to vacate the premises as checked below.

X Posted in a conspicuous place on the property on 3-26-1984 there being no occupant at the time of service of an occupant was attempted. Another copy was mailed to the defendant(s) GWENDOLYN KING addressed to 4401 Don Diablo Drive,L.A.

CA 90008 by depositing said copy in the United States mail on 3-26-1984 at Culver City, CA 90230 in a sealed envelope with postage fully prepaid.

I further certify that thereafter on 4-19-1984 I placed the creditor(s) [LONNIE KAPLAN, SIMA KAPLAN] in quiet and peaceful possession of the premises therein described. I herewith return said W it without further service, fully satisfied as to the creditor(s) possession only, with accrued costs of $14.00.

DATED: APR 23 1984 FILED APR 23 1984

DIVISION CULVER 31

JOHN F. MAHON, JR.

MARSHAL

By /s/P. Pickens

P. PICKENS #81

Deputy Marshal

76P475X-(B) PS5-83

SUPREME COURT OF THE UNITED STATES

NO.A-20

GWENDOLYN L. KING, ETC.

Appellant

v.

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, STROMWALL,

Respondents

LONNIE KAPLAN, SIMA KAPLAN,

Real Parties In Interest

O R D E R

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled case be, and the same is hereby, extended to and including September 4, 1984.

/s/William H. Rehnquist

Associate Justice of the Supreme

Court of the United States

Dated this 12th

day of July, 1984

oOo

" 84-695

NO.

OFFICE SUPRE
F I L E
AUG 11 1
ALEXANDER L.
CLERK

In the Supreme Court

OF THE

United States

No. A-21

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, individual,
Petitioner(s)/Appellant(s)

v.

Hon. MANUEL REAL, LEONARD BROSNAN, Clerk, USDC, Central District of California;
Hon. BARRY RUSSELL, Hon. PETER ELLIOTT, JACK WAGNER, Clerk,
USBC, Central District of California,
Respondents/Appellees

INTEGRITY HOME LOAN CO., INC., LONNIE KAPLAN, SIMA KAPLAN as alleged Beneficiaries under Trust Deed No.81-1214615, etc.
Real Parties in Interest/Appellees

ON APPEAL FROM THE NINTH CIRCUIT

JURISDICTIONAL STATEMENT

Gwendolyn L. King, In Pro Se

85-A

ARREST REPORT

Booking No.7732-675 Loc SBI Dr Lic NONE

Arrestee's Name KING, GWENDOLYN L.

Address 4401 Don Diablo Drive L.A. Sex F

Descent BLK Birthdate REFUSED Age UNK

Birthplace UNK

Division & Detail Arresting S/W CZN

Date & Time Arrested 9-1-84 1405

Location of Arrest 4401 Don Diablo Drive

Bail 500.00

Type M Charge 419 PC REPOSSESSION OF LAND AFTER REMOVAL BY LEGAL PROCESS

ADMONITION OF RIGHTS NOT GIVEN

Arraignment Date 9-24-84 8:30 Div 80

Location Crime Committed 4401 Don Diablo

R.D. 391 Soc Sec No. UNK Res Phone NONE

Occupation NONE Employer NONE

Clothing worn Jeans Wht dotted sht

Location Arrestee's Vehicle NONE

Evidence of illness Heart trouble

INVOLVED PERSONS Code V-Victim W-Witness P/A- Private Person Arresting R-Person Reporting

P/A KAPLAN, LONNIE Sex M Descent WHITE DOB 5-20-19 Address 9758 El Arco Drive Whittier, California 90603

APPROVAL REPORTING OFFICERS 9-1-84 1900

S/W REPORTING OFFICER S/W CZN KAPLAN

PAGE NO.2/4 ARREST REPORT 7732-695

SOURCE OF ACTIVITY:

On 9-1-84 at approx 1330 hrs ofcrs assigned 3015 in a mkd Blk & Wht Pol Veh rec'd a R/C 459 [Felony Burglary] now at 4401 Don Diablo Dr Code-2.

OBSERVATIONS:

Upon arrival Ofrs were met by P/A KAPLAN. P/A KAPLAN stated that on 4-19-84 at 11:45 this deft was served by LA County Marshals with an eviction Notice. P/A stated that the deft had left the loc upon

Notice of the eviction papers. P/A stated that he is the owner of the property and presented proper documents to verify so.

P/A stated that he has returned to the above loc on prior occasions and obsd the deft inside the residence after eviction. P/A stated that he has also warned the deft that she was in violation of the eviction Notice that the Marshals served.

On 9-1-84 at approx 1300 hrs P/A returned to the loc and attempted to enter and obs the frt door was secured from the inside and a lock was forced on the side gate. P/A stated that he peered through the mail chute and obs the deft inside. P/A attempted to gain entry but deft refused. P/A then notified LAPD. Ofcrs were also denied entry. Ofcrs went to the rear of the loc and obs the rear sliding glass door unlocked and a large hole in a rear

window, Ofrs called Vict's [not a mistake, in the report] name through the rear window and heard her reply from inside the resid. Ofcrs entered and discoved the deft barricaded inside the bathroom. P/A and Ofcrs asked deft to exit and she refused.

PAGE NO.3/4 ARREST REPORT 7732-695

P/A advised deft that he was going to place her under CZN Arrest and deft still refused to exit the bathroom. P/A then supplied Sgt. Hernandez #21757 with a screwdriver and requested that he open the door.

ARREST:

P/A placed deft under CZN Arr for 419 PC (POSS OF LAND AFTER REMOVAL BY LEGAL PROCESS) See p.4 for CZN Arr Statements.

BOOKING:

Deft was booked on the above charge at

SBI [SYBIL BRAND INSTITUTE] on advice of Sgt O'Neill #15627 S/W W/C.

PAGE NO.4/4 ARREST REPORT 7732-695

STATEMENT OF CITIZEN ARREST:

AS A PRIVATE PERSON I, LONNIE KAPLAN HAVE ARRESTED GWENDOLYN KING FOR VIOLATION OF SECTION 419 OF THE PENAL CODE, A PUBLIC OFFENSE COMMITTED IN MY PRESENCE AT 4401 DON DIABLO DRIVE, L.A.

I HEREBY DEMAND THAT POLICE OFFICERS J. GREER #22830 AND D. DAVIS #24517 TRANSPORT THE SUSPECT TO THE STATION.

I UNDERSTAND THAT I HAVE ARRESTED THIS PERSON AND I WISH TO PROSECUTE. THE OFFICERS ARE ONLY TRANSPORTING AND COMPLETING THE NECESSARY REPORTS.

/s/Lonnie Kaplan

9752 El Arco Drive

Whittier, California 90603

(213) 943-2382 DOB 5-20-19

R E C E I V E D
SEP 6 1984
OFFICE OF THE CLERK
SUPREME COURT U.S.

NO.A-20

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

GWENDOLYN L. KING aka GWENDOLYN L. GREENE

Petitioner/Appellant

v.

Hon. CLARANCE STROMWALL, LAMC, L.A.COUNTY

Respondents/Appellee

LONNIE KAPLAN, SIMA KAPLAN as alleged Beneficiaries under Trust Deed No.81-1214615 with defunct R & T FINANCIAL SERVICING CO., INC. Trustee in Foreclosure

Real Parties In Interest

APPEAL FROM SUPREME COURT OF CALIFORNIA

CAL S CT NO.B004133(LAMC A65170)

JURISDICTIONAL STATEMENT

September 4, 1984 GWENDOLYN L. KING

CERTIFICATE OF SERVICE

A-20

THE UNDERSIGNED CERTIFIES THAT ON SEPTEMBER 4, 1984 I SERVED ATTORNEYS OF RECORD FOR EACH OF THE APPELLEES AS FOLLOWS:

U.S. ATTORNEY
11th Floor
312 No.Spring St.
Los Angeles, CA 90012

VOLK, NEWMAN, ETC.
1920 Equitable Plaza
3435 Wilshire Blvd.
Los Angeles,CA90010

ATTORNEY-GENERAL,U.S.A.
Washington, D.C. 20530

SOLICITOR-GENERAL
Washington, D.C. 20530

LAW OFFICES OF
CAPRICE COLLINS
5757 W. Century
Los Angeles,CA90045

I CERTIFY UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT ON SEPTEMBER 4, 1984, LOS ANGELES, CA.

/s/Roberto Confresci
$200.00 Docket Fees
sent separate

1509 No. Main St.
Santa Ana, CA
92701

JURISDICTIONAL STATEMENT A-20 ENVELOPE

POSTMARKED SEP 04 '84

Roberto Confresci
1509 No.Main St.
Suite B118
Santa Ana, CA 92701

METER STAMP LABEL
USPO
WPC WIND
SEP 4 1984
LOS ANGELES, CA
PRIORITY MAIL

ALEXANDER STEVAS, CLERK
SUPREME COURT OF THE UNITED STATES
Washington, D.C. 20543

[Enclosure JURISDICTIONAL STATEMENT A-20]
Typewritten ORIGINAL plus one COPY]

GWENDOLYN L. KING
3003 NO. CENTRAL AVE
SUITE 121-158
PHOENIX,AZ 85012

RECEIVED
JUL 2- 1985
OFFICE OF THE CLERK
SUPREME COURT U.S.
[40 printed copies]

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

NO.A-20

COMPANION FEDERAL APPEAL NO.84-695, A-21

GWENDOLYN L. KING aka GWENDOLYN L. GREENE

Petitioner/Appellant

v

HON. CLARENCE STROMWALL, LAMC, et al

Respondents/Appellees

LONNIE KAPLAN, SIMA KAPLAN, etc.

Real Parties In Interest

APPEAL FROM SUPREME COURT OF CALIFORNIA

Cal S Ct No.B004133(LAMC No.A65170)

+ 28 USC 1252 SUPPLEMENTAL APPEALS 12-31

SEPT 4,1984 JURISDICTIONAL STATEMENT

JURISDICTIONAL STATEMENT A-20

DOCKET FEES

UNITED STATES OF AMERICA

POSTAL MONEY ORDER

34826406221 850802 900541 $200.00

Serial No. Yr.Mo.Day P.O. U.S.Doll.

PAY TO CLERK OF U.S. SUPREME COURT

STREET Washington, D.C.

CITY,STATE,ZIP 20542

FROM GWENDOLYN L. KING

STREET New Address 3003 North Central Av
Ste 121-158

CITY,STATE,ZIP Phoenix, AZ 85012

(Old Address: 1509 No Main St Ste B118
Santa Ana, CA 92701)

Under separate Cover King v LAMC,KAPLAN
JURISDICTIONAL STATEMENT [40 printed]
(Combined Appeal from Cal S Ct Sep 4'84
+ 28 USC SUPPLEMENTAL APPEALS 12-31-84)

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

People of the State of California [KAPLAN], Plaintiff, -vs- GWENDOLYN L. KING, 7732-695 PC 419 Defendant.	) MISDEMEANOR COMPLAINT NO.31303105 Filed: [no date] EDWARD M. KRITZMAN,Clerk IRA REINER C.Atty

Comes now the undersigned and states that he is informed and believes, and upon such information and belief declares: That on or about September 1, 1984, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit: violation of §410 of the Penal Code of the State of California was committed by GWENDOLYN L. KING (whose true name to

96 -A

affiant is unknown), who at the time and place aforesaid, did willfully and unlawfully after having been removed from any lands, to wit, 4401 Don Diablo Drive, by process of law, and pursuant to the lawful adjudication and direction of any court and tribunal and officer, afterwards unlawfully return to settle, reside upon, and take possession of such lands.

All of which is contrary to the law and against the peace and dignity of the People of the State of California. Declarant and complainant therefore prays that a warrant may be issued for the arrest of said defendant and that he may be dealt with according to law.

Attached hereto and incorporated by reference as though fully set forth are written statements and reports, consisting of pages [APPDX PP. 86-90 ARREST

REPORT pages 2/4, 3/4, 4/4], which constitute the basis upon which I make the within allegations.

A Declaration in Support of the issuance of Such Warrant is Submitted [NO DECLARATION SUBMITTED].

Executed at Los Angeles, California, on September 6, 1984 [Emphasis in Complaint].

I declare under penalty of perjury that the foregoing is true and correct.

[Unsigned]

KIRK RIZZI

Declarant

and Complainant

L.A. City Attorney

ks

o0o

MUNICIPAL COURT OF THE LOS ANGELES

JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

MISDEMEANOR DOCKET CASE ACTION SUMMARY

Case Number 31303105

1. The People of the State of California

vs.

Gwendolyn L. King, Defendant

Violation §419 Penal Code Date 9-1-84

Date SEP 10 1984 Complaint Filed RIZZI

2. APPEARANCE INFORMATION

9-24-84 8:30 a.m. DIV 82 BAIL $50.00

3. CONTINUANCES

9-24-84 DIV 80 Judge DAVID M. KENNICK*

Prosecutor FERRELL Defense Atty NONE

Deft PRESENT CONTINUED 9-25-84 1:30 p.m.

9-25-84 DIV 80 Judge DAVID M. KENNICK

Deft PRESENT [FALSE] CONT. 9-26-84 1:30

Prosecutor FERRELL Defense Atty NONE

4. FAILURE TO APPEAR/BENCH WARRANT

Oct 03 1984 DIV 80 Judge DAVID M. KINNEY

Prosecutor FERRELL Defense Atty NONE

OCT 18 1984 Bench Warrant Issued and

Transmitted to LAPD.

Defendant Fails to Appear.

Bail Ordered Forfeited.

Bail set at $750.00

*9-24-84 no formal charge in open court no plea entered, no witnesses appeared including LONNIE KAPLAN, SIMA KAPLAN, alleged Citizens Arrestors of 9-1-84, no defense Counsel appointed, deft not asked if she was appearing In Pro Per, deft told by LAMC Judge DAVID M. KINNEY "Show up tomorrow at 1:30 p.m. and I'll deal with you." and handed a slip of paper that stated on 9-25-84 deft would be sentenced. On 9-25-84, Noon, deft filed Removal Petition No.CR84-906 in

the United States District Court of Central California ("USDC C CA"), King v California [KAPLAN], and has not appeared in the LAMC Criminal Case No.31303105 since 9-24-84, docket entries to the contrary on the Misdemeanor Docker Case Action Summary.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Docket Entries

Case No.CR84-906 (LAMC No.31303105)

Gwendolyn L. King,

Petitioner/Defendant

v.

State of California[KAPLAN]

Respondents/Plaintiffs

09-25-84 Filed Petition for Removal from Muni Ct of County of L.A. Ca #31303105, POSS OF LAND AFTER REMOVAL BY LEGAL PROCESS. RLB (Dkt'd 10-12-84)

10-04-84 Plf/Rspdnt STATE OF CALIFORNIA filed MOTION TO DISMISS PETITION FOR REMOVAL OR IN ALT TO REMAND. P/A RLB (Dkt'd 10-12-84)

10-09-84	Status Hearing held (HRG RE PTN TO REMOVE ACTION FROM MUNI CT. RE ST'S MOT TO DSM OR TO REMAND, NO APPEAR BY DFT/PTR. STATE'S MOT TO DSM PTN GRANTED & ACTION REMANDED TO MUNI CT JUDGE HATTER RLB (Dkt'd 10-12-84)
10-09-84	Case closed: All counts terminated (CT GRANTS STATE'S MOT TO DSM PETN & ACTION REMANDED TO MUNI CT JUDGE HATTER RLB (Dkt'd 10-12-84)
10-09-84	Status Hearing held (ASSIGNMENT OF PETITION FOR REMOVAL MAGISTRATE TASSOPULOS RLB (Dkt'd 10-16-84)
10-11-84	ORDER filed (ORD PETN FOR REMOVAL IS DSMD & CASE REMANDED TO MUNI CT LA JUDICIAL DIST JUDGE HATTER RLB (Dkt'd 10-16-84)

10-18-84 DFT Filed [28 USC 1252] NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES [to be appended to King et al v Real, USDC C CA, Brosnan, Russell, Elliott, ex rel Integrity Home Loan Co., Inc., Lonnie & Sima Kaplan (CA9 NO.84-7097 USDC C CA NO.CV83-5901R) U.S. S.C. NO.84-695, NO.A-21, Docketed AUG 11, 1984, 105 S Ct Rptr 768 no.5 (1984) and/or to be appended to King etc. v Stromwall, LAMC, L.A. County, State of California ex rel Lonnie & Sima Kaplan (Cal S Ct No. B004133, Cal Ct Appeal No.B0041 33, L.A. Superior Court No.C486-610, LAMC No.A65170) U.S. S.C. NO.A-20, APPDX pp. 91,94 herein Docketed SEPT 04, 1984, no

number assigned or placed on calendar by Clerk of Supreme Court of the United States]

10-26-84 DFT FLD TRANSCRIPT DSGN & ORD FOR RLB (Dkt'd 10-29-84)

o0o

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

USDC C CA NO.CR84-906

(formerly LAMC Criminal No.31303105)

REMOVAL PETITION King v California,Kaplan

Transcript of Proceedings OCT 09 1984

LOS ANGELES, CALIFORNIA

TUESDAY, OCTOBER 09, 1984, 2:15 p.m.

TERRY J. HATTER, JR., DISTRICT JUDGE

(Un-noticed MOTION TO DISMISS/REMAND filed OCT 04, 1986 by L.A. CITY ATTORNEYS IRA REINER, ESQ., ARTHUR WALSH, ESQ.)

CLERK: Item number one, civil action CV84-906, The State of California versus Gwendolyn L. King. Counsel, please make your appearances.

WALSH: Good afternoon, your Honor. Arthur B. Walsh, W-a-l-s-h, Deputy City Attorney for the People of the State of California. (TR. P.4)

JUDGE HATTER: Thank you. All right. Do we have the defendant who is in pro per here? We don't have the defendant? (TR. p.4)

WALSH: She did not appear this morning either, your Honor, in the Magistrate's Court.

JUDGE HATTER: I see. And what efforts have you made to contact her?

WALSH: None, your Honor.

JUDGE HATTER: You made no efforts to contact her?

WALSH: No, your Honor.

CLERK: Your Honor, our office did.

JUDGE HATTER: Oh, I see. So she did receive notice?

(Document handed to Court)

JUDGE HATTER: All right. I see from the Court file that the Magistrate did have the Clerk's Office send out

notice [received by Deft Oct 10,1984].

All right. The motion to dismiss the petition for removal is granted.

WALSH: Thank you, your Honor.

JUDGE HATTER: If you will prepare the order.

WALSH: I will lodge it tommorrow.

JUDGE HATTER: All right. Thank you.

I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD ON THE RECORD IN THE ABOVE-ENTITLED MATTER.

November 3, 1984

/s/Patricia Ferrier

PATRICIA FERRIER

Official Reporter

(TR.p.5)

o0o

IRA REINER, ESQ.

Los Angeles City Attorney

ARTHUR B. WALSH, ESQ.

Los Angeles City Deputy Attorney

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

PEOPLE OF THE STATE	) NO.CR84-906
OF CALIFORNIA,[KAPLAN]	) TJH (LAMC NO.
Plaintiff/Respondent	) 31303105)
vs.	) DISMISSING
GWENDOLYN L. KING	) REMOVAL
Defendant and Appellant.	) PETITION

ORDER entered on Courtran OCT 16

Petitioner's Petition for Removal came on for hearing before this Court, the Honorable Terry J. Hatter, Jr., Judge presiding, on October 9, 1984. The issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED that the Petition for

Removal is summarily dismissed pursuant to 28 USC 1446(c)(4) and the case remanded [to[the Municipal Court of the Los Angeles Judicial District.

DATED: 10/11/84

/s/Terry J. Hatter, Jr.

Hon. TERRY J. HATTER,JR.

USDC Judge

o0o

MARSHAL OF MUNICIPAL COURTS

LOS ANGELES COUNTY

NOTICE TO APPEAR ON WARRANT

Case No.31303105B

Nov 26 1984

California [Kaplan] v King

GWENDOLYN L. KING

1509 North Main St. Suite B118

Santa Ana, California

This office is holding a warrant for your arrest.

To avoid arrest, you must appear in person within three (3) days after receiving this notice.

Appear at the address shown below at the time indicated.

8:30 a.m. only. BRING THIS NOTICE

CENTRAL COURT

429 Bauchet St,L.A.

By [stamped signature]

E. REDMAN, Deputy

CONSTITUTION OF THE UNITED STATES

★ ARTICLE I. ★

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

SECTION 8. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

SECTION 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

★ ARTICLE III. ★

SECTION 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party: to controversies between two or more states, *between a state and citizens of another state*, between citizens of different states, between citizens of the same state, claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, *citizens or subjects.*

★ AMENDMENT XIV. ★

(adopted 1868)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

★ ARTICLE IV. ★

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

★ ARTICLE VI. ★

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

★ AMENDMENT I. ★

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

★ AMENDMENT IV. ★

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

★ AMENDMENT V. ★

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

★ AMENDMENT VI. ★

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

★ AMENDMENT VII. ★

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

★ AMENDMENT VIII. ★

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

★ AMENDMENT XI. ★

(adopted 1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another state, or by citizens or subjects of any foreign state.

★ AMENDMENT XIII. ★

(adopted 1865)

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

PERTINENT TEXT OF U.N. CHARTER (TREATY)

Article 55

With a view to the conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principles of equal rights and self determination of peoples, the United Nations shall promote:...

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purpose set forth in Article 55.1/

1/ References to human rights in the U.N. Charter Treaty, Preamble, Articles 1, 55, 56, 62, 68, 76, provide the basis for implementing protection of human rights. On December 10, 1948, the General Assembly adopted the Universal Declaration of Human Rights (U.N. Doc A/811) which constitutes general principles of the "law of Nations" (SEE Statute of I.C.J., Article 38(1)(c))

PERTINENT TEXT OF U.N. CHARTER (TREATY)
"LAW OF NATIONS"
UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article 1

All human beings are born free and equal in dignity and rights...

Article 2

Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status....

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment ot punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by the law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge...

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation, Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution....

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience...to manifest his... belief in teaching, practice...

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any

media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 23

Everyone has the right to work, to free choice of employment...to protection against unemployment....

Article 26

1. Everyone has the right to education...professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit....

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity...aimed at destruction of... rights and freedoms set forth herein.

PERTINENT TEXT-MULTILATERAL TREATY

ABOLITION OF SLAVERY...

INSTITUTIONS AND PRACTICES SIMILAR...

SECTION I. INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

Article 1

Each of the States Parties...shall take all practicable and necessary legislative and other measures to bring about ...as soon as possible the complete abolition or abandonment of the following institutions and practices...whether or not they are covered by the definition of slavery contained in Article 1 of the Slavery Convention signed at Geneva on 25 September, 1926:

(a) debt bondage, that is to say, the status or condition arising from a pledge by a debtor...if the value...as reasonably assessed is not applied towards liquidation of the debt...

Article 2

Any slave who takes refuge on board any vessel of a State Party to this Convention shall ipso facto be free.

SECTION III. SLAVERY AND INSTITUTIONS AND PRACTICES SIMILAR...

Article 5

In a country where the abolition or abandonment of slavery, or of the institutions or practices mentioned in Article I...is not yet complete, the act of multilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason, or of being accessory thereto, shall be a criminal offence under the laws of the States Parties to this Convention and persons convicted thereof shall be liable to punishment.

SECTION IV. DEFINITIONS

Article 7

For purposes of the present Convention:

(a) 'slavery' means, as defined in the Slavery Convention of 1926, the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised...

(b) 'a person of servile status' means a person in the condition or status

resulting from any of the institutions or practices mentioned in Article 1 of this Convention....

SECTION V. CO-OPERATION BETWEEN STATES PARTIES AND COMMUNICATION OF INFORMATION

Article 8

The States Parties to this Convention undertake to co-operate with each other and with the United Nations to give effect to the foregoing provisions....

SECTION VI. FINAL CLAUSES

Article 9

No reservations may be made to this Convention.

Article 10

Any dispute between States Parties to this Convention relating to its interpretation or application, which is not settled by negotiation, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute...2/

2/ Executive L, 88th Cong-1st Sess, September 7, 1956 Geneva, Switzerland, ratified by U.S. Senate November 2, 1967, deposited with the Secretary-General of U.N. and in force December 6, 1967.

15 USCS § 1631

(b) If a transaction involves one creditor as defined in section 103(f) [15 USCS § 1602(f)], ... such creditor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures.

(As amended Mar. 31, 1980, P.L. 96-221, Title VI, § 611 in part, 94 Stat. 174.)

HISTORY; ANCILLARY LAWS

Amendments:

1980. Act Mar. 31, 1980 (effective 2 years and 6 months after enactment on 3/31/80, as provided by § 625(a) of such Act, ... substituted this section for one which read:

"(a) Each creditor shall disclose clearly and conspicuously, in accordance with the regulations of the Board, to each person to whom consumer credit is extended, the information required under this chapter or chapter 4."

15 USCS § 1635

Right of rescission

as to certain transactions

(a)...in the case of any consumer credit transaction...in which a security interest including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom the credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction OR THE DELIVERY OF THE INFORMATION AND RESCISSION FORMS REQUIRED UNDER THIS SECTION TOGETHER WITH A STATEMENT CONTAINING THE MATERIAL DISCLOSURES REQUIRED UNDER THIS TITLE 15 USC §§1601 et seq, whichever is later, by notifying the Creditor...The creditor shall also provide appropriate forms for the obligor to exercise his right to rescind any transaction subject to the section. [EMPHASIS ADDED]

(b) When an Obligor exercises his right to rescind under subsection (a), he is not liable for any finance or other charge,and any security interest given by the obligor, including any such interest arising by operation of law, becomes void upon such rescission. WITHIN 20 DAYS AFTER RECEIPT OF A NOTICE OF RESCISSION, THE CRED-

ITOR SHALL RETURN TO THE OBLIGOR ANY MONEY OR PROPERTY GIVEN...AND SHALL TAKE ANY ACTION NECESSARY OR APPROPRIATE TO REFLECT THE TERMINATION OF ANY SECURITY INTEREST CREATED UNDER THE TRANSACTION. If the Creditor has delivered any property to the obligor, the obligor may retain possession of it. Upon the performance of the creditor's obligations under this section, the obligor shall tender the property to the creditor...The procedures prescribed in this subsection shall apply except when otherwise ordered by a court.[EMPHASIS ADDED]

42 § 1981

Equal rights under the law

All persons within the jurisdiction of the United States shall have the same rights in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 § 1982

Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

42 § 1983

Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

42 § 1985

Conspiracy to interfere with civil rights

OBSTRUCTING JUSTICE; INTIMIDATING PARTY

(2) If two or more persons in any State or Territory conspire to deter by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict...in any such court...; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;... the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators.

28 § 2072

Rules of civil procedure

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts and courts of appeals of the United States in civil actions...and appeals therein,...

Such rules shall not abridge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of ninety days after they have been thus reported.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supercede, or repeal any such rules heretofore prescribed by the Supreme Court.

28 § 455

Disqualification of justice, judge

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

FEDERAL
RULES OF CIVIL PROCEDURE
FOR THE
UNITED STATES DISTRICT COURTS

RULE 1, FRCP, 28 USC

SCOPE OF RULES

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

RULE 2, FRCP, 28 USC

ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

RULE 3, FRCP, 28 USC

COMMENCEMENT OF ACTION

A civil action is commenced by filing a complaint with the court.

RULE 4, FRCP, 28 USC

PROCESS

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

RULE 8, FRCP, 28 USC

GENERAL RULES OF PLEADING

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends unless the court already has jurisdiction and the claim needs no new grounds to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

RULE 38, FRCP, 28 USC

JURY TRIAL OF RIGHT

(a) Right Preserved. The right of tria by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the parties inviolate.

(b) Demand. Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the actin and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed upon a pleading of a party.

RULE 39, FRCP, 28 USC

TRIAL BY JURY OR BY THE COURT

(a) By jury. When trial by jury has been demanded as provided in Rule 38, the action shall be designated upon the docket as a jury action. The trial of all issues so demanded shall be by jury, unless (1) the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury or (2) the court upon motion or of its own initiative finds that a right of trial by jury of some or all of thise issues does not exist under

the Constitution or statutes of the United States.

RULE 43, FRCP, 28 USC

TAKING OF TESTIMONY

(a) Form. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by an Act of Congress or by these rules, the Federal Rules of Evidence or other rules adopted by the Supreme Court.

RULE 52, FRCP, 28 USC

FINDINGS BY THE COURT

(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any

other motion except as provided in Rule 41(b).

RULE 41, FRCP, 28 USC

DISMISSAL OF ACTIONS

(b) Involuntary Dismissal: Effect For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of a claim against him...If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal no provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

RULE 53, FRCP, 28 USC

MASTERS

(a) Appointment and Compensation. The court in which any action is pending may appoint a special master therein. As used in these rules the word "master" includes a referee...The compensation to be allowed to a master shall be fixed by the co court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in custody and control of the court as the court may direct.

(b) Reference. A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it...

(e) Report. (1) Contents and Filing. The master shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, he shall set them forth in the report. He shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

RULE 54, FRCP, 28 USC

JUDGMENTS

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

(b) Judgment Upon Multiple Claims or Involving Mutiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or wh when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

RULE 57, FRCP, 28 USC

DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to Title 28 USC 2201, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate...

RULE 83, FRCP, 28 USC

RULES BY DISTRICT COURTS

Each district court by action of a majority of the judges thereof may from t time to time make and amend rules governing its practice not inconsistent with these rules. Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to the Supreme Court of the United States. In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules.

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FEDERAL
RULES OF APPELLATE PROCEDURE

RULE 1, FRAP, 28 USC

SCOPE OF RULES

(a) Scope of Rules. These rules govern procedure in appeals to United States courts of appeals from the United States district courts...; in proceedings in the courts of appeals for review...; and in applications for writs or other relief which a court of appeals or a judge thereof is competent to give....

(b) Rules Not to Affect Jurisdiction. These rules shall not be construed to extend or limit the jurisdiction of the courts of appeals as established by law.

RULE 27, FRAP, 28 USC

MOTIONS

(c) Power of a Single Judge to Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single judge of a court of appeals may entertain and may grant or deny any request for relief which under these rules may properly be sought by motion, except that a single judge may not dismiss or otherwise determine an appeal or other proceeding, and except that a court of appeals may provide by order or rule that

any motion or class of motions must be acted upon by the court. The action of a single judge may be reviewed by the court.

(d) Form of Papers; Number of Copies. All papers relating to motions may be typewritten. Three copies shall be filed with the original, but the court may require that additional copies be furnished.

RULE 47, FRAP, 28 USC

RULES BY COURTS OF APPEAL

Each court of appeals by action of a majority of the circuit judges in regular active service may from time to time make and amend rules governing its practice not inconsistent with these rules. Copies of all rules made by a court of appeals shall upon their promulgation be furnished to the Administrative Office of the United States Courts.

[The order of the Supreme Court of December 4, 1967, stated that the rules set forth, to be known as the Federal Rules of Appellate Procedure, "be and they hereby are, prescribed, pursuant to... section[s] 2072...of Title 28, USC, to govern the procedure in appeals to United States courts of appeal from the United States district courts,...in applications for writs or other relief which a United States court of appeals or judge thereof is competent to give...."]

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CALIFORNIA BANK & CORP TAX LAW

REVENUE & TAXATION CODE

§23302 The Franchise Tax Board shall transmit names of taxpayers to the Sec'y of State as to which the suspension or forfeiture provisions of §23301...are or become applicable, and the suspension or forfeiture therein provided for shall become effective, and the certificate of the Sec'y of State shall be prima facie evidence of such suspension or forfeiture.

§23304 Every contract made in violation of this article is hereby declared to be voidable, at the instance of any party other than the taxpayer.

§23571 (a) Except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended and shall not be exercised for any purpose or in any manner in this state.

CALIFORNIA CIVIL CODE

§1265 From and after the time the declaration [of Homestead] is filed for the record, the premises therein described constitute a homestead.

§1549 Contract. Definition.
A contract is an agreement to do or not to do a certain thing.

§1550 Essential Elements of Contract.
It is essential to the existence of a contract that there should be:
1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and
4. A sufficient cause or consideration.

§1558 Identity of Parties Essential.
It is essential to the validity of a contract, not only that the parties should exist, but that it should be possible to identify them.

§2920 Mortgage--Definition
Mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession.

§2922 Written Creation--Formalities
[Statute of Frauds] A mortgage can be created, renewed, or extended, only by writing, executed with the formalities required in the case of a grant of real property.

CALIFORNIA CODE OF CIVIL PROCEDURE

§83 Concurrent Jurisdiction.

The jurisdiction of municipal and justice courts is the same and concurrent.

§86 Jurisdiction

Each municipal and justice court has original jurisdiction of civil cases and

proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, ...

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession o of real property where rent is charged and the amount of the last rental charged is one thousand ($1,000) per month or less... [EMPHASIS ADDED]

§410.10 Basis of Jurisdiction.
A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

§418.10 Objection to Jurisdiction. Motion to Quash Service of Summons or Dismiss Action

(a) A defendant, on or before the last day of his time to plead...may serve and file a notice of motion...

(1) To squash service of summons on the ground of lack of jurisdiction of the court over him

(c) If such motion is denied...the defendant, within 10 days after service upon him of a written notice of entry of an order of the court...and before pleading, may petition an appropriate reviewing

court for a writ of mandate to require the trial court to enter its order squash- the service of summons...

(d) No default may be entered against the defendant...and no motion under this section [CCP 418.10] shall be deemed a general appearance by the defendant.

§803 ACTIONS FOR USURPATION OF...A FRANCHISE. Action by Attorney General in Name of People.

An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes, into, or unlawfully holds or exercises any...franchise, or against any corporation, either de jure or de facto, which usurps, intrudes into, or unlawfully holds or exercises any franchise, within this state. AND THE ATTORNEY-GENERAL MUST BRING THE ACTION, WHENEVER HE HAS REASON TO BELIEVE THAT ANY SUCH...FRANCHISE HAS BEEN USURPED, INTRUDED INTO, OR UNLAWFULLY HELD OR EXERCISED BY ANY PERSON, OR WHEN HE IS DIRECTED TO DO SO BY THE GOVERNOR. [EMPHASIS ADDED]

CALIFORNIA PENAL CODE

§419 REPOSSESSION OF LANDS AFTER REMOVAL BY LEGAL PROCESS. Every person who has been removed from any lands by ["DUE' omitted] process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any

Court, tribunal, or officer, and who afterwards unlawfully returns to settle, reside upon, or take possession of such lands, is guilty of a misdemeanor. (1872)

§1024 Plea of Not Guilty; Entry on Refusal to Answer Charge. If the defendant refuses to answer the accusatory pleading by demurrer or plea, a plea of not guilty must be entered. (1872)

FEDERAL RULES OF BANKRUPTCY

BR RULE 6009 Prosecution and Defense of Proceedings by Trustee or Debtor In Possession. With or without court approval, the trustee or debtor in possession may prosecute or may enter an appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate before any tribunal.

BR RULE 6007 Abandonment or Disposition of Property.

(a) Notice of Proposed Abandonment.

Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to all creditors, indenture trustees... pursuant to the Code [Title 11 USC]...

(b) Motion by Party In Interest.

A party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property

of the estate.

BR RULE 6004 [Old BR RULE 606(b)(2)] COLLECTION AND LIQUIDATION. Use, Sale of Property.

(a) Notice of Proposed Use, Sale.

Notice of a proposed use, sale...of property other than in the ordinary course of business shall be given pursuant to Rule 2002(c), and (i).

(e) Conduct of Sale.

(1) Public or Private Sale..

...an itemized statement of the property sold, the name of each purchaser, and the price received for each item ...shall be filed with the clerk on the completion of a sale. If the property is sold by an auctioneer, he shall file the statement and furnish a copy to the trustee, debtor in possession, or chapter 13 debtor. If the property is not sold by an auctioneer, the trustee, debtor in possession, or chapter 13 debtor shall file the statement.

(2) Execution of Instruments.

After a sale in accordance with this rule, the debtor, the trustee, or debtor in possession, as the case may be, shall execute any instrument necessary or ordered by the court to effectuate the transfer to the purchaser.

BR RULE 2002 NOTICE TO CREDITORS, EQUITY SECURITY HOLDERS

(a) Twenty-day Notices to Parties In Interest.

...the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 20 days notice by mail of...(2) a proposed use,sale, lease of property...(7) hearings on all applications for compensation or reimbursement of expenses totaling in excess of $100.00 ...

(c) Contents of Notice

(1) Proposed Use, Sale or Lease of Property.

Subject to Rule 6004, the notice of a proposed use, sale, or lease of property required by subdivision (a) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections...

(2) Notice of Hearing on Compensation

The notice of a hearing on an application for compensation or reimbursement of expenses required by subdivision (a)(7) of of this rule shall identify the applicant and the amounts requested.

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11 USC 541

PROPERTY OF THE ESTATE

(a) The commencement of a case under ...this title creates an estate...

(e) The estate shall have the benefit of any defense available to the debtor... including statutes of limitation, statutes of fraud, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.

11 USC 363

USE, SALE, OR LEASE OF PROPERTY

(b) The trustee, after notice and a hearing, may use, sell, or lease...property of the estate.

(n) The trustee may void a sale under this section if the sale price was controlled by an agreement among potential bidders at such sale, or may recover from a party to such agreement any amount by which the value of the property sold exceeds the price at which such sale was consummated, and may recover any costs, attorneys' fees, or expenses incurred in voiding such sale or recovering such amount. The court may grant judgment in favor of the estate and against any such party that entered into such agreement in willful disregard of this subsection for punitive damages in addition to any recovery under the preceding sentence.

11 USC 105

POWER OF COURT
(a) The bankruptcy court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

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FIN

JURISDICTIONAL STATEMENT APPENDICES

CA9 NO.83-6427

King et al v California et al

784 F 2d 910 (9th Cir 1986)

GWENDOLYN L. KING, In Pro Se
c/o CENTRAL AVE POSTAL CENTER
3003 North Central Ave
Suite 121-158
Phoenix, Arizona 85012

PETITIONER(S)/APPELLANT(S)

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